



13 December 2010

By Philip Halton

# MONDAY NEWS

## Over \$12,000 awarded against farmer who consigned unfit sheep ...

Earlier this month, the Magistrates Court in South Australia handed down a blistering judgement in a prosecution brought by the RSPCA against a farmer who consigned around 250 weak and dehydrated sheep amongst a mob of around 750 head. This was just a local job, nothing to do with the movements from WA.

About fifty of the sheep died, either during an eight hour road trip or overnight at a saleyard that provided no food or water in its pens. There was evidence given that the sheep had been shorn prior to being transported.

On my reading of **the judgement**, the prosecution were probably hunting for an admission of reckless or wilful harm. The defendant conceded to the Court that *'he did not pay close attention to the condition of the sheep'*.

That argument didn't save him; in my experience, it never does.

Senior Magistrate C.W. Kitchin told the defendant, a farmer, *"[t]he inescapable fact is that the [prime] responsibility for ensuring that sheep and other animals that are commonly transported by road are in a fit condition to travel rests with the consignor ..."*

The Magistrate told the defendant exactly what he expected of him: *"It is inconceivable that anyone who has, as a principal source of income, the care and control of large flocks of sheep, should not be fully aware of the responsibilities that the [Animal Welfare Act] creates for the proper management of those animals."*

And when he turned to sentencing, the Magistrate really let rip. Using a common technique of Magistrates, he quoted from a Supreme Court judgement to express what was on his mind:

*A conviction does not merely record a finding that the person committed the crime charged: it condemns him for the crime; it is a communicative act, communicating censure to the convicted person. The recording of a conviction acts as a general deterrent to others who may be inclined to offend in a similar way.*

Magistrate Kitchin recorded a conviction against the defendant's name and ordered him to pay fines and costs of over \$12,000.

On top of that, the defendant will have his own legal costs to pay – he'd hired a Senior Counsel as his barrister, no less – which presumably adds anything up to another \$7,000 to his expenses.

## ... can you afford to accept an unfit load?

Very few of our members will ever earn \$12,000 or \$20,000 for an eight hour haul to a saleyard, so it's worth quoting this passage from his Honour's judgement:

*... it seems somewhat anomalous in my opinion that the transport operator has not been called to account for his involvement in this matter ...*

Regulators often take careful note of any judicial criticism of their conduct, and they regularly swap notes across borders. It's a fair bet that in any future case like this, any transport operator is now more likely to face some questions about why he didn't refuse all or part of the load.

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## ... pay attention to your stock preparation

This Magistrate clearly knows the livestock transport industry. He had a number of detailed things to say about stock preparation, and how the impact of any curfew from food and water prior to transportation must be taken into account when making an assessment that stock are fit to load and whether the total time off water will be acceptable.

The pretty clear hint from his judgement is that producers and transporters should not curfew stock that are already in a drought-affected condition.

## Bobby calves: at last, a proposal

Just in time for Christmas, on 23 December the animal welfare regulators will be formally releasing the Regulatory Impact Statement for the proposed national standard on bobby calves.

The proposal that will come out in the RIS is to legislate for a 30 hour maximum limit on time of (liquid) feed. The two other options that will also be put out for public consultation are a 24 hour and 18 hour limit.

If you're on my 'bobby calf list', a copy of this RIS will find its way to you. If you're not already on my list and want to have a say on this issue, drop me a line this week – before we close up for the Christmas break. And if you're not sure if you're on the list, drop me a note just in case!

Timelines will be tight. Government is looking to hold face-to-face meetings from 6 January and to finish industry consultation before 1 February.

## Kenworth: looking ahead to their fortieth anniversary

As we head into 2011, it's worth noting that our National Sponsor, Kenworth is on its way to their fortieth anniversary. The very first Kenworth rolled off the production line on the 2<sup>nd</sup> of March, 1971.

Earlier this year, Andrew Hadjikakou, Director of Sales and Marketing for PACCAR Australia told the audience at the National Road Transport Hall of Fame that it *“was a defining day for PACCAR Australia, and for the future of transport companies, owner operators and drivers across the country. Four decades on....42 models...and 45,000 Kenworths later...we're still leading the way. Defining the future...as only Kenworth can”*.

Kenworth have just finished a national tour of their 2011 range, with 15 trucks travelling to every state in Australia and on display at 26 locations along the way. The 2011 range has some striking new styling for the cabover and aerodynamic models, and improved safety, comfort and cooling efficiency across the range.

Mark your diaries to see a dealer in 2011, and see what Kenworth has in store for you in this anniversary year!

## National Headquarters – will Santa buy a brick?

Even though so many operators are working going flat out at the moment, the flow of bricks has been steady all week.

You can still lodge your order form at anytime during the break. And we're going to be anxiously waiting to see if Santa replies to our postcard!

### How soon will our industry fully own our National Headquarters?

Last forecast:	This week's forecast:	If every Member buys a brick:
9 September 2017	28 August 2017	4 November 2013

## No News till 17 January.

We'll be back in Office after just a short break, responding to bobby calves and all these other discussion papers government has released in December. We'll hold off the News until 17 January.

## Go safely these holidays.

The Christmas holidays are one of the prime periods when inexperienced light vehicle drivers come out onto Australia's national highways. Be on the lookout for tired, distracted and speeding drivers. Drive defensively, and help everyone get home to their families.

Go safely, Philip Halton

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